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इस भाग में भिन्न पृष्ठ संख्या वी जाती है जिससे यह अलग संकलन
के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation

LOK SABHA

The following Bill was introduced in Lok Sabha on the 2nd May, 1984:—

BILL NO. 42 OF 1984

A Bill further to amend the Industrial Disputes Act, 1947.

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Industrial Disputes (Amendment) Act, 1984. Short title and commencement.

14 of 1947. (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

2. In section 2 of the Industrial Disputes Act, 1947 (hereinafter referred to as the principal Act), in clause (oo), after sub-clause (b), the following sub-clause shall be inserted, namely:— Amendment of section 2.

“(bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or”.

3. In section 25F of the principal Act, in clause (a), the proviso shall be omitted. Amendment of section 25F.

Amend-
ment of
section
25M.

4. In section 25M of the principal Act,—

(a) in sub-section (1), for the words “with the previous permission of such authority as may be specified by the appropriate Government by notification in the Official Gazette, unless such lay-off is due to shortage of power or to natural calamity”, the words and brackets “with the prior permission of the appropriate Government or such authority as may be specified by that Government by notification in the Official Gazette (hereafter in this section referred to as the specified authority), obtained on an application made in this behalf, unless such lay-off is due to shortage of power or to natural calamity, and in the case of a mine, such lay-off is due also to fire, flood, excess of inflammable gas or explosion” shall be substituted;

(b) for sub-sections (2) to (5), the following sub-sections shall be substituted, namely:—

“(2) An application for permission under sub-section (1) shall be made by the employer in the prescribed manner stating clearly the reasons for the intended lay-off and a copy of such application shall also be served simultaneously on the workmen concerned in the prescribed manner.

(3) Where the workmen (other than *badli* workmen or casual workmen) of an industrial establishment, being a mine, have been laid-off under sub-section (1) for reasons of fire, flood or excess of inflammable gas or explosion, the employer, in relation to such establishment, shall, within a period of thirty days from the date of commencement of such lay-off, apply, in the prescribed manner, to the appropriate Government or the specified authority for permission to continue the lay-off.

(4) Where an application for permission under sub-section (1) or sub-section (3) has been made, the appropriate Government or the specified authority, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workmen concerned and the persons interested in such lay-off, may, having regard to the genuineness and adequacy of the reasons for such lay-off, the interests of the workmen and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workmen.

(5) Where an application for permission under sub-section (1) or sub-section (3) has been made and the appropriate Government or the specified authority does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted on the expiration of the said period of sixty days.

(6) An order of the appropriate Government or the specified authority granting or refusing to grant permission shall, subject to the provisions of sub-section (7), be final and

binding on all the parties concerned and shall remain in force for one year from the date of such order.

(7) The appropriate Government or the specified authority may, either on its own motion or on the application made by the employer or any workman, review its order granting or refusing to grant permission under sub-section (4) or refer the matter or, as the case may be, cause it to be referred, to a Tribunal for adjudication:

Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference.

(8) Where no application for permission under sub-section (1) is made, or where no application for permission under sub-section (3) is made within the period specified therein, or where the permission for any lay-off has been refused, such lay-off shall be deemed to be illegal from the date on which the workmen had been laid-off and the workmen shall be entitled to all the benefits under any law for the time being in force as if they had not been laid-off.

(9) Notwithstanding anything contained in the foregoing provisions of this section, the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the establishment or death of the employer or the like, it is necessary so to do, by order, direct that the provisions of sub-section (1), or, as the case may be, sub-section (3) shall not apply in relation to such establishment for such period as may be specified in the order.";

(c) sub-section (6) shall be re-numbered as sub-section (10).

5. For section 25N of the principal Act, the following section shall be substituted, namely:—

"25N. (1) No workman employed in any industrial establishment to which this Chapter applies, who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until,—

(a) the workman has been given three months' notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice; and

(b) the prior permission of the appropriate Government or such authority as may be specified by that Government by notification in the Official Gazette (hereafter in this section referred to as the specified authority) has been obtained on an application made in this behalf.

(2) An application for permission under sub-section (1) shall be made by the employer in the prescribed manner stating clearly

Substitution of new section for section 25N.

Conditions precedent to retrenchment of workmen.

the reasons for the intended retrenchment and a copy of such application shall also be served simultaneously on the workmen concerned in the prescribed manner.

(3) Where an application for permission under sub-section (1) has been made, the appropriate Government or the specified authority, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workmen concerned and the persons interested in such retrenchment, may, having regard to the genuineness and adequacy of the reasons stated by the employer, the interests of the workmen and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workmen.

(4) Where an application for permission has been made under sub-section (1) and the appropriate Government or the specified authority does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted on the expiration of the said period of sixty days.

(5) An order of the appropriate Government or the specified authority granting or refusing to grant permission shall, subject to the provisions of sub-section (6), be final and binding on all the parties concerned and shall remain in force for one year from the date of such order.

(6) The appropriate Government or the specified authority may, either on its own motion or on the application made by the employer or any workman, review its order granting or refusing to grant permission under sub-section (3) or refer the matter or, as the case may be, cause it to be referred, to a Tribunal for adjudication:

Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference.

(7) Where no application for permission under sub-section (1) is made, or where the permission for any retrenchment has been refused, such retrenchment shall be deemed to be illegal from the date on which the notice of retrenchment was given to the workman and the workman shall be entitled to all the benefits under any law for the time being in force as if no notice had been given to him.

(8) Notwithstanding anything contained in the foregoing provisions of this section, the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the establishment or death of the employer or the like, it is necessary so to do, by order, direct that the provisions of sub-section (1) shall not apply in relation to such establishment for such period as may be specified in the order.

(9) Where permission for retrenchment has been granted under sub-section (3) or where permission for retrenchment is deemed to be granted under sub-section (4), every workman who is employed in that establishment immediately before the date of application for permission under this section shall be entitled to receive, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months.”.

6. In section 25Q of the principal Act, the words, brackets, letter and figures “clause (c) of sub-section (1) or sub-section (4) of” shall be omitted.

Amend-
ment of
section
25Q.

7. In the Industrial Disputes (Amendment) Act, 1982,—

Amend-
ment of
Act 46 of
1982.

(a) in sub-section (2) of section 1, after the words “by notification in the Official Gazette, appoint”, the words “, and different dates may be appointed for different provisions of this Act” shall be inserted;

(b) section 13 shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The Industrial Disputes Act, 1947, provides the machinery and procedure for the investigation and settlement of industrial disputes. The provisions of the Act had been amended from time to time in the light of experience gained in its actual working, case laws and industrial relations policy of the Government.

2. The amendments proposed in the Bill are mainly to clarify certain doubts expressed by Courts on the validity of certain provisions of the Act. The Bill, *inter alia*, seeks to make the following amendments in the Act, namely:—

(i) Difficulties have arisen in the interpretation of the expression "retrenchment". It is proposed to exclude from the definition of "retrenchment" as contained in the Act termination of the service of a workman as a result of the non-renewal of the contract of employment on its expiry and of the termination of such contract in accordance with the provisions thereof;

(ii) Following the decision of the Supreme Court in the Excel Wear case (A.I.R. 1979 S.C. 25), some High Courts have declared invalid the special provisions relating to lay-off and retrenchment contained in the Act which applied to establishments employing 300 or more workmen. It is proposed to redraft these provisions on the same lines as the amended provision relating to closure, which was inserted by the Industrial Disputes (Amendment) Act, 1982 (46 of 1982), after taking into consideration the observations of the Supreme Court in the above case.

3. The Industrial Disputes (Amendment) Act, 1982, was passed by Parliament in August, 1982. A number of provisions of that Act confer considerable benefits to workmen. In order to provide that the various sections of that Act can be notified for enforcement separately and with effect from different dates, it is proposed to amend suitably section 1(2) of that Act.

NEW DELHI;

VEERENDRA PATIL

The 12th April, 1984.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4(b) of the Bill proposes to substitute sub-sections (2) to (5) of section 25M of the Industrial Disputes Act, 1947. New sub-section (2) requires the employer, who intends to lay-off any of his workmen, to apply for prior permission to the appropriate Government, and a copy of such application shall also be served simultaneously on the workmen concerned, in the manner prescribed by rules. The new sub-section (3) also requires the employer in relation to a mine to apply in the manner prescribed by rules for permission to continue any lay-off declared in respect of that mine.

2. Clause 5 of the Bill proposes to substitute a new section for the existing section 25N of the Act. Sub-section (2) of new section 25N requires the employer, who intends to retrench any workman, to apply for prior permission to the appropriate Government, and a copy of such application shall also be served simultaneously on the workmen concerned, in the manner prescribed by rules.

3. The matters in respect of which rules may be made under the above provisions are matters of detail or procedure. The delegation of legislative power is thus normal in character.

SUBHASH C. KASHYAP,
Secretary-General.

